BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of: Exploring Issues Associated with Implementation and Distribution Planning of Distributed Generation	Docket Nos. 04-DIST-GEN-1 and 04-IEP-1

COMMENTS OF THE COGENERATION ASSOCIATION OF CALIFORNIA AND THE ENERGY PRODUCERS AND USERS COALITION ON THE RULE 21 WORKING GROUP RECOMMENDED CHANGES TO INTERCONNECTION RULES

Michael Alcantar
Rod Aoki
Alcantar & Kahl LLP
1300 SW Fifth Avenue
Suite 1750
Portland, OR 97201
503.402.9900 office
503.402.8882 fax
mpa@a-klaw.com
rsa@a-klaw.com

Counsel to the Cogeneration Association of California

Evelyn Kahl
Nora Sheriff
Alcantar & Kahl LLP
120 Montgomery Street
Suite 2200
San Francisco, CA 94104
415.421.4143 office
415.989.1263 fax
ek@a-klaw.com
nes@a-klaw.com

Counsel to the Energy Producers and Users Coalition

November 30, 2004

BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of: Exploring Issues Associated with Implementation and Distribution Planning of Distributed Generation	Docket Nos. 04-DIST-GEN-1 and 04-IEP-1

COMMENTS OF THE COGENERATION ASSOCIATION OF CALIFORNIA AND THE ENERGY PRODUCERS AND USERS COALITION ON THE RULE 21 WORKING GROUP RECOMMENDED CHANGES TO INTERCONNECTION RULES

The Cogeneration Association of California[1] (CAC) and the Energy Producers and Users Coalition[2] (EPUC; jointly, CAC/EPUC) submit these comments to the Rule 21 Working Group Recommended Changes to Interconnection Rules (WG Report). These comments are submitted to the California Energy Commission (Energy Commission) pursuant to the posted schedule in the notice of committee hearing in the above-noted dockets. These comments focus on the threshold issue of whether the utilities should be

[1] CAC represents the power generation, power marketing and cogeneration operation interests of the following entities: Coalinga Cogeneration Company, Mid-Set Cogeneration Company, Kern River Cogeneration Company, Sycamore Cogeneration Company, Sargent Canyon Cogeneration Company, Salinas River Cogeneration Company, Midway Sunset Cogeneration Company and Watson Cogeneration Company.

[2] EPUC is an ad hoc group representing the electric end use and customer generation interests of the following companies: Aera Energy LLC, BP America Inc. (including Atlantic Richfield Company), Chevron U.S.A. Inc., ConocoPhillips Company, ExxonMobil Power and Gas Services Inc., Shell Oil Products US, THUMS Long Beach Company, Occidental Elk Hills, Inc., and Valero Refining Company - California.

permitted to impose a blanket requirement of net generation metering for all new customer generation or if metering requirements should be flexible.

I. INTRODUCTION

According to the WG Report, the utilities uniformly assert a blanket requirement for net generation metering. CAC and EPUC offer a more reasonable and balanced resolution of the net generation metering issue, in line with statutory requirements, federal and state regulatory agency decisions and current utility tariffs. CAC/EPUC's evenhanded approach to the net generation metering issue recognizes both the additional cost imposed by such metering and the intrusion onto the customer's property resulting from such metering. Equally importantly, it addresses the utility customers' concern that net generation meters may be used to gather confidential and commercially sensitive customer data. Moreover, CAC/EPUC's approach, similar to the intent of the current Rule 21 provision, is flexible and provides for net generation metering where truly necessary.

It is critical that the Energy Commission recognize that net generation metering is not necessary in all circumstances and should not, therefore, be automatically required. Under certain specific circumstances, for example where ratepayer funded incentive payments are provided, net generation metering may be appropriate; however, it is not and should not be required in all situations. Non-metering alternatives continue to suffice for tariff administration purposes and operation and planning purposes, particularly where the customer does not

choose to claim compensation for benefits put to grid or incentive payments from such programs as the Self Generation Incentive Program (SGIP).

CAC/EPUC propose the following balanced approach to answer the question of whether net generation metering should be required:

> *If the customer generator does not receive a Self Generation Incentive payment pursuant to the Self Generation Incentive Program or a standby charge exemption pursuant to its status as a Distributed Energy Resource, as defined by Public Utilities Code §353.1, or a reduced "cogeneration" gas rate, the customer should remain able to choose non-metering, less intrusive and/or less costly alternatives, such as estimated consumption*.

CAC/EPUC advocate this balanced approach to the installation of net generation metering whereby imposition of such metering is selectively required. Net generation metering would be imposed only if a customer receives a ratepayer-funded incentive, an exemption from standby charges as a Distributed Energy Resource (DER), or gas service under a cogeneration gas rate.

II. THE ENERGY COMMISSION SHOULD ADOPT A BALANCED APPROACH TO NET GENERATION METERING TO CONTINUE ENCOURAGEMENT OF CUSTOMER GENERATION.

A. The Current Rule 21 Metering Provisions Provide Flexibility, Not a Rigid Net Generation Metering Requirement.

Section F of Rule 21 addresses Metering, Monitoring and Telemetry requirements. In relevant part, it currently states:

> *For purposes of monitoring Generating Facility operation for determination of standby charges and applicable non-bypassable charges as defined in [Investor Owned Utility's (IOU)] tariff, and for Distribution System planning and operations, consistent with Section B.4 of this Rule, [IOU] shall have the right to specify the type, and require the installation of Net Generation Metering equipment. [IOU] shall only require the Net Generation Metering to the extent that less intrusive and/or more cost effective options for providing the necessary Generating Facility output data are not available.*

In exercising its discretion to require Net Generation Metering, [IOU] shall consider all relevant factors, including but not limited to:

a. Data requirements in proportion to need for information;
b. Producer's election to install equipment that adequately addresses [IOU's] operational requirements;
c. Accuracy and type of required Metering consistent with purposes of collecting data;
d. Cost of Metering relative to the need for and accuracy of the data;
e. The Generating Facility's size relative to the cost of the Metering/monitoring;
f. Other means of obtaining the data (e.g., Generating Facility logs, proxy data, etc.); and
g. Requirements under any Interconnection Agreement with the Producer.

[IOU] will report to the Commission or designated authority, on a quarterly basis, the rationale for requiring Net Generation Metering equipment in each instance along with the size and location of the facility.

Rule 21, Section F.3. Given the detailed list of factors that the utility is supposed to take into consideration when making such a determination, it is obvious that this determination was not intended to be made on a summary basis. Further, the current language states that utilities should only require net generation metering to administer a tariff "*to the extent that less intrusive and/or more cost effective options for providing the necessary Generating Facility output data are not available*." Alternate methods are available. One method, estimation of customer consumption, is currently provided by the utilities' tariffs and has been recently re-confirmed as reasonable by the CPUC. This framework is supposed to be sufficiently flexible to permit different metering configurations based on different situations.

1. Current Rule 21 Language Was Intended To Provide A Flexible and Even-Handed Framework For Determining Metering Needs.

At the April 25, 2000 hearing in the Energy Commission's Docket No. 99-DIS-GEN-(2), Pacific Gas & Electric Company (PG&E) committed to trying to develop interim language to allow Rule 21 to be implemented. This interim language would permit a longer, more thorough process to occur through which final metering requirements would be developed. PG&E proposed developing language that gave utilities some discretion in requiring net generation metering, but that could also exempt a generating facility from a net generation metering requirement. Furthermore, PG&E committed to work with interested parties to develop the list of factors and provide the proposal to the Energy Commission in mid-May of 2000.

CAC/EPUC and PG&E subsequently developed together the list of factors in Section F of the current Rule 21. During those negotiations, CAC/EPUC understood that the primary basis for PG&E's desire for net generation metering was convenience, not necessity, as the generation-related data had historically been acquired without such meters. Additionally, PG&E indicated that such metering would be required only in limited cases for tariff administration (*e.g.*, cogeneration gas rates), recognizing that tariff administration needs drive metering requirements.

B. Specific Billing Provisions In Tariffs Drive Metering Requirements, Not Rule 21.

As noted previously, Rule 21 provides flexibility for different metering configurations, for example, either Point of Common Coupling metering or net

generation metering. This is because the actual billing needs for data are driven by the particular tariffs that apply to the customer. The Rule 21 metering section logically defers to the specific utility billing needs set forth in the specific billing tariffs for tariff administration needs, not the other way around. That is, the specific metering or data requirements provided in a specific tariff trump the more general and flexible metering provisions of Rule 21. Rule 21 states that its metering requirements are "*for determination of standby charges and applicable non-bypassable charges* ***as defined in [Investor Owned Utility's (IOU)] tariff***". Rule 21, Section F.3 (emphasis added). The key tariff administration requirements, as recognized by the very language of Rule 21, are found in the tariffs setting forth the billing requirements, not Rule 21. For example, the Departing Load (DL) tariffs provide that estimation may be used for billing purposes. *See* SCE Preliminary Statement W and Schedule DL-NBC.

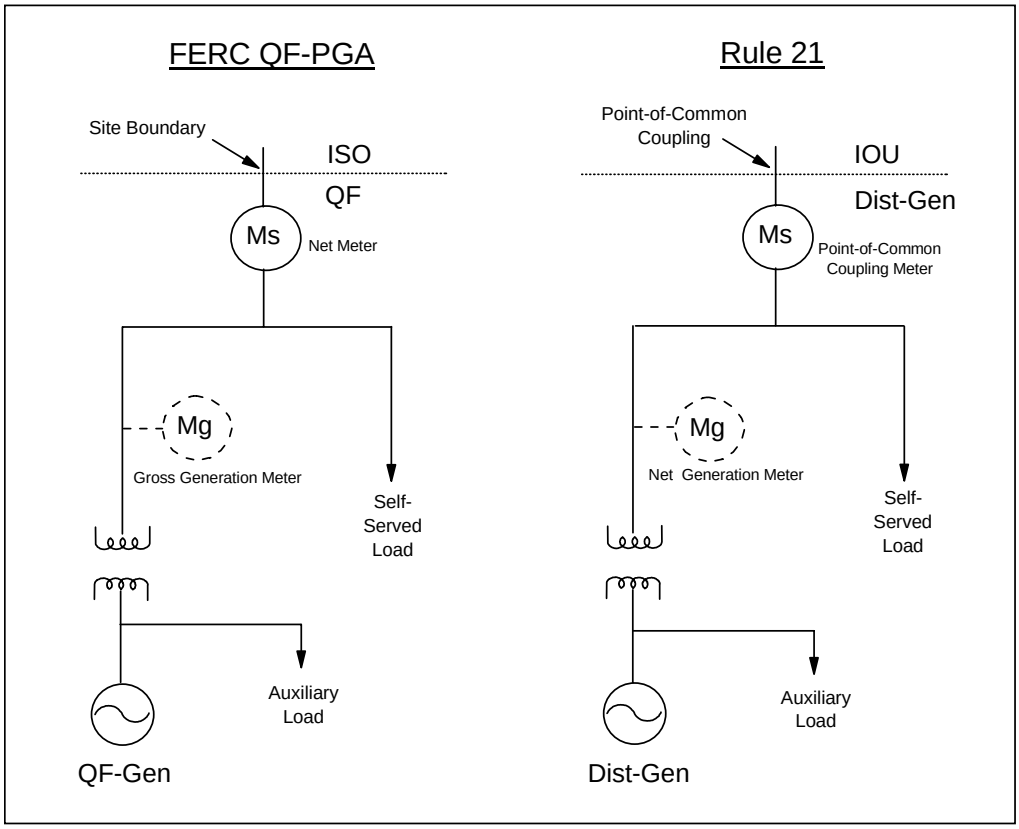
This flexibility provided by Rule 21 permits the appropriate metering configuration, whether site boundary metering or net generation metering, as required by the specific circumstances. Importantly, in some circumstances, net generation metering has been expressly precluded or judged unnecessary.

C. Net Generation Metering Has Been Explicitly Forbidden By FERC And Deemed Unnecessary By the CPUC.

The Energy Commission's determination of a recommendation regarding whether net generation metering should be a blanket requirement in all circumstances should be guided by Federal Energy Regulatory Commission (FERC) and California Public Utility Commission (CPUC) decisions.

1. FERC Finds CAISO Net Generation Metering Unjust and Unreasonable.

FERC has several times now addressed the question of whether Qualifying Facilities (QFs) in California must submit to a California Independent System Operator (CAISO) requirement of net generation metering. Although different terms are used, *e.g.*, gross meter for net generation meter, the CAISO gross metering proposal is equivalent to the Net Generation Metering defined in Rule 21. They would both place the generation meter in similar locations, on the customer's property behind the site boundary line.



As these above diagrams show, the CAISO and utility "generation metering" proposals, regardless of the different qualifiers of "gross" or "net," are identical.

FERC ordered the CAISO to meter QFs only at the site boundary, stating that a requirement of gross metering (net generation metering) was unfair and unnecessary. This decision concerned the CAISO's decision to attempt to apply charges to a customer's "behind-the-meter" load. The CAISO asserted that the charges were necessary to recover its expenses in managing such load, and proposed that to assess those charges, meters should be placed on the customers' generators.

FERC disagreed with the CAISO and disallowed the behind-the-meter charges, finding in relevant part that the CAISO should not be "managing" the customer's on-site load served by its on-site generation. "*In terms of metering, including telemetry when required by the CAISO's Tariff, the judge ruled that it is unjust and unreasonable to require QFs that enter into a PGA to gross meter and telemeter generation and behind-the-meter load [i.e., require net generation metering]"* 104 FERC ¶ 61,196, paragraph 19.

FERC also clearly stated that the CAISO did not need such metering for system operation or for reliability purposes.

> *The judge found that, to obtain real-time information* ***for reliability of the system, CAISO must measure the actual power flow that appears at the interconnection point between the QF and [IOU].*** *…[B]asic physics dictates that the flow of energy must change at the point of interconnection. Thus, … CAISO only needs to measure the direct impact on its system; changes in load and generation behind-the-meter will be captured at this point [i.e., at the site boundary]."*

104 FERC ¶ 61,196, paragraph 19 (emphasis added). Notably, the CPUC in a standby decision in R.99-10-025, also found the CAISO gross metering, *i.e.*, net generation metering, policy unsupportable, stating in Conclusion of Law 23, *"We*

should not support the CAISO's gross load metering policy." D.01-07-027, at 83. The FERC decision is binding on the CAISO for QFs in California operating under a CAISO Tariff. The CAISO meter for California QFs is to be located at the site boundary, or Point of Common Coupling, not on the customer's generator.[3]

While not binding on Rule 21 interconnections, the FERC decision is based on principles relevant to the Rule 21 net generation metering issue. First, net generation metering is not needed for operations or system reliability because the system is impacted by power flow over the point of common coupling. Second, metering requirements must be fair and reasonable, that is, only required where necessary.

[3] As it has historically, the Point of Common Coupling meter provision in Rule 21 provides the utilities' the requisite metering configuration for retail service tariff administration:

> *For purposes of assessing [IOU] charges for retail service, the Producer's Point of Common Coupling Metering shall be a bi-directional meter so that power deliveries to and from the Producer's site can be separately recorded. Alternately, the Producer may, at its sole option and cost, require [IOU] to install multi-metering equipment to separately record power deliveries to [IOU's] Distribution System and retail purchases from [IOU]. Such Point of Common Coupling Metering shall be designed to prevent reverse registration.*

Rule 21, Section F.4. Moreover, the Point Of Common Coupling metering provision, unlike the "sunset" net generation metering and telemetry provisions, will not expire on December 31, 2004. Unlike the Point of Common Coupling provision, the net generation metering sub-section, which the utilities argue permits them to require net generation metering, along with subsection F.5 on telemetry requirements, will sunset, or expire, on December 31, 2004. *See* Rule 21, Section F.6. This sunset provision requires the utilities to first demonstrate a need for net generation metering before mandating the placement of such metering on the customer's side of the site boundary. Rule 21 also requires that the utility report the basis for its assessment of "need" to the CPUC on a quarterly basis. Clearly, the required reports were supposed to provide insight into the utility assertions of need and determinations. Counsel to CAC/EPUC have only recently been able to review these reports in the context of the Rule 21 Working Group forum; they lack detail regarding the utilities' rationale for requiring net generation metering and include only bland statements of "tariff administration" or "system operation." Without any such detail, these reports provide no insight.

2. CPUC Concludes that Net Generation Metering Is Not Necessary and Orders Utilities To Use Estimated Consumption For Billing Purposes.

The CPUC and utility tariffs have historically provided for the use of estimation of customers' consumption as the basis for billing DL nonbypassable charges instead of net generation metering. These charges include the Tail Competition Transition Charges (CTC), Nuclear Decommission charges (ND) and Public Purpose Program Charges (PPP). Recently the CPUC confirmed that the DL Cost Responsibility Surcharge (CRS) should also be billed based on estimates of customer consumption rather than net generation metering. *See* Energy Division Resolution E-3831. Therefore, the CPUC has unequivocally answered the question of whether Net Generation Metering was required for calculation of the DL CRS and DL non-bypassable charges. The answer is no. The Resolution finds:

> *Utility tariff provisions for measuring **and estimating load** for use in billing the CTC **are reasonable for billing the CRS**, as proposed by SCE and SDG&E.*

ED Resolution E-3831, at 26, Finding 6 (emphasis added). The Resolution then specifically orders:

> *Utility tariff provisions for measuring and **estimating departed load for use in billing Tail CTC shall be used for billing the CG CRS**.*

Id., at 28, Ordering Paragraph 3 (emphasis added). The CPUC unanimously adopted this Resolution on July 8, 2004.

The FERC and CPUC have thus determined that net generation metering is not necessary in all circumstances. Indeed, it is expressly prohibited by FERC,

and the CPUC has ruled that utility billing tariffs provide reasonable alternatives to net generation metering.

3. Utility Tariff Provisions Uniformly Provide Customer Choices For Alternatives To Net Generation Metering.

SCE Preliminary Statement W and Schedule DL-NBC state that the utility will estimate the customer's consumption where metered data is not available.

> *If reliable metered consumption information is not made available to SCE, SCE will estimate the consumption based on that customer's historical load pursuant to Part W, Section 4.b.(3) at the time the customer discontinues or reduces its purchases from SCE. This estimated consumption will also be used as the basis for calculation of a Reference Period Annual Bill.*

SCE Preliminary Statement W.3.a., Sheet 3. PG&E's Preliminary Statement BB similarly provides:

> *If reliable metered consumption information is not made available to PG&E, PG&E will estimate the consumption based on that customer's historical load as set forth in Section BB.5.e.*

PG&E Preliminary Statement BB.2.b, at 2. SDG&E's tariff likewise permits estimation of consumption in lieu of metered data:

> *If reliable metered consumption information is not made available to the Utility, the Utility will estimate the consumption based on that customer's historical load pursuant to this Rule at the time the customer discontinues or reduces its purchases from the Utility.*

SDG&E Electric Rule 23, Sheet 2. Metering would not be made available if the customer chooses, as is the customer's right, when it notifies the utility of its pending departure to have its bills based on estimated consumption.

The tariffs then all state that the <u>customer, not the utility,</u> may choose one of two (or three, in SDG&E's territory) proposed methods for estimation of the customer's consumption.

*The **customer** shall specify in its notice the following:*

> *… Method by which the Departing Load consumption will be determined consistent with the procedures outlined in Part W, Section 4.b.(3).*

SCE Preliminary Statement W.4.a.(1), Sheet 4 (emphasis added); s*ee also* PG&E Preliminary Statement BB.5.c ("*the customer's reference billing determinants will be based upon one of the following two options (**to be selected by the Departing Load customer**)*")(emphasis added); *see also* SDG&E Rule 23 D.3.c.

Each utility tariff further provides clear direction to the customer regarding the customer's options for consumption estimation. For example, SCE's tariff states:

> *…[T]he Departing Load customer's monthly consumption estimation will be based upon the customer's historical load at the time it discontinues or reduces retail service with SCE, **using one of the following options**:*
>
> *(a) The customer's demand and energy usage over the 12 month period prior to the customer's submission of notice; or*
> *(b) The customer's average 12 month demand and energy usage, with such average to be as measured over the prior 36 months of usage.*

SCE Preliminary Statement W.4.b.(3), Sheet 6 (emphasis added); s*ee also* PG&E Preliminary Statement BB.5.c; *see also* SDG&E Rule 23 D.3.c.

The utility tariffs cited above give the customer the option of having their nonbypassable charges and DL CRS bills calculated on the basis of estimated consumption derived from historical usage figures. Net Generation Metering is not required to bill Departing Load.

Importantly, the CPUC recently confirmed that existing utility tariff provisions for estimation of customer consumption are, to use the CPUC's own term, "reasonable." ED Resolution, FOF 6. The CPUC then ordered, "*Utility tariff provisions for measuring and* ***estimating*** *departed load for use in billing Tail CTC* ***shall be used*** *for billing the CG CRS." Id.,* OP 3 (emphasis added). Thus the current utility tariff provisions for administration of the DL Tail CTC, ND and PPC, that is, estimation of the DL customer's consumption, without using net generation metering data, are to be used for billing.

FERC and the CPUC have thus determined that net generation metering is not necessary in all circumstances. Indeed, it is expressly prohibited by FERC, and the CPUC has ruled that utility billing tariffs provide reasonable tariff administration alternatives, *e.g.,* estimation of customer consumption, to net generation metering.

D. Data Integration Issues Are a Red Herring And Should Not Arise With Estimation of Customer Consumption.

Utilities, in the WG Report, complain about data integration issues and billing complexity arising from not having net generation metering. *See* WG Report, at 9. These issues do not justify the cost of or the intrusion into non-utility property caused by net generation metering. In fact, these issues should not be presented by estimation of customers' consumption at all. According to their own tariff provisions, the utilities should be using the customer's historical load data to estimate the consumption – this information is in the utilities' system. It is their own data. There should not be any integration issues.

The tariffs also adequately address the issue of customer complaints regarding bills based on estimated consumption. SCE Preliminary Statement W provides for a later installation of a meter should the utility and customer be unable to resolve issues arising from estimation; this provision has proven successful in resolving issues in the past and there is no reason why it should not continue to be successful in the future.

Where a customer has not opted for the cogeneration gas rate, received standby charge exemptions due to DER status, or participated in the SGIP, it is that customer's right under utility tariffs to have bills based on estimated usage. As cited above, all three utilities' tariffs provide for the use of estimated consumption to bill Tail CTC. Further, the CPUC has determined that this method is reasonable and ordered utilities to use it for billing the DL CRS. The CPUC would not affirm that the customer consumption estimation method is reasonable and order its use if it were precluded by the Public Utilities Code or utility rules.

E. SCE Claims That PU Code § 770(D) And Electric Utility Rules Preclude The Use Of Estimated Consumption For Billing Purposes Misread The Statute And Rules.

1. PU Code § 770(d), SCE Rule 9 and 17 Do Not Restrict The Use of Estimated Customer Consumption For Utility Billing; They Simply Limit The Use of Meter Reading Estimates For An Existing Meter.

SCE wrongly asserts in the WG Report that PU Code § 770(d) and SCE Rules 9 and 17 mean that it cannot regularly use estimates of customers' consumption for billing purposes and net generation metering should always be required. *See* WG Report, at 10, footnote 10. A careful reading of the code and

rules demonstrates that SCE is wrong. In fact, the PU Code and utility rules cited do not even address the question of whether net generation metering should be required in all circumstances or if the customer's consumption may be estimated. Rather, these authorities provide direction for the utility when the existing utility meter, *e.g.,* the Point of Common Coupling meter or a residential customer's meter, is unable to be read, as may occur due to weather or vandalism, and the meter reading must therefore be estimated for that billing cycle.

PU Code § 770(d) states in relevant part:

> *The commission shall require a public utility that* ***estimates meter readings*** *to so indicate on its billings, and shall require any estimate [of the meter reading] that is incorrect to be corrected the next billing period, except for reasons beyond its control due to weather, or in cases of unusual conditions, corrections for any overestimate or underestimate shall be reflected on the first regularly scheduled bill and based on an actual reading [of the meter] following the period of [the meter's] inaccessibility.*

West's Ann.Cal.Pub.Util.Code § 770(d) (2004)(emphasis added). This code section clearly refers to estimation of *meter readings*, not estimation of *customer consumption*. The use of the terms "meter readings" versus "customer consumption" distinguishes the two different estimates in question. The meter reading estimates to which the PU Code refers are different from the customer consumption estimates permitted by CPUC decision and utility tariffs; that is, estimates of what the meter would read were it accessible are not the same thing as estimates of levels of "*customer consumption*" as ordered by the CPUC and detailed in utility tariffs. To argue that they are the same ignores the basic fact that the terms qualifying the word estimate, meter readings versus customer consumption, clearly differ. Moreover, to argue that they are the same would

illogically also assert that utility tariffs and CPUC decisions cited above contradict the PU Code.

SCE Rule 9 is a general rule that applies to metered service, *i.e.*, service provided where a meter records the customer's consumption to which the rates of the relevant tariff apply. For example, service provided under SCE Schedule D-Domestic Service for residential customers is metered service. Service provided to an industrial customer under SCE TOU-8 is also considered metered service. If either the residential customer or the industrial customer decides to install customer generation, such a customer then departs the traditional metered service and becomes Departing Load. Also, while they may still be responsible for certain nonbypassable charges, Schedule D-Domestic Service or TOU-8 and Rule 9 would no longer apply.

Importantly, as noted above, the CPUC has determined that such DL customers are responsible for certain nonbypassable charges and has also provided specific direction for utility billing of these charges. Net generation metering is not, according to the CPUC, necessary for the calculation of the DL CRS. *See* Resolution E-3831, OP 3. Moreover, SCE has specific tariff provisions for the billing of such charges based on estimated customer consumption. *See* SCE Preliminary Statement W.3.a., Sheet 3. And, both PG&E and SDG&E have similar tariffs. *See* PG&E Preliminary Statement BB; *see* also SDG&E Rule 23. These adopted tariffs permit the utilities to estimate customer consumption for billing of the nonbypassable charges rather than use metered data. The customers, under these tariffs, may opt to have their

consumption estimated for billing purposes for nonbypassable charges rather than metered data. Rule 9 does not apply to the use of estimated consumption for these customers for billing purposes.

Similarly, Rule 17 applies only to traditional metered service where access to the meter is prevented or the meter is determined to be inaccurate. It simply does not apply the use of estimated Departing Load customer consumption for utility billing. PU Code § 770(d) and SCE Rules 9 and 17 are not on point and do not speak to the net generation metering issue. The CPUC decisions and utility tariffs discussed above, however, are on point and clearly permit alternatives to net generation metering for tariff administration. Therefore, net generation metering is not needed for tariff administration; moreover, it is not needed for system planning and operation either.

F. Planning and Operation Needs Do Not Require Net Generation Metering.

The planning and operation of the utilities' systems are impacted by: 1) the withdrawal or injection of power from or into their systems; or 2) the installed capacity of the customer generation. The electrical power withdrawal and injection is metered at the Point of Common Coupling and the installed capacity of the customer generation is reported as an element of interconnection with the utility. Accordingly, planning and operation concerns do not justify net generation metering. Moreover, as noted by FERC in its Opinion No. 464, the WSCC witness stated, *"[S]ince the implementation of PURPA, QF facilities have typically used [point of common coupling] metering"* and he acknowledged that there had been no major system disturbances. 104 FERC ¶ 61,196, paragraph 39.

Further, the utilities have argued that their distribution system planners size the distribution system based on the customer generation being unavailable at the time of the planning peak unless the customer provides "physical assurance." Physical assurance requires that the load will not be served during the peak load period due to unscheduled outages. Thus, the customer generation should be shown in the planning models as a 0.0 kW of normal and emergency capability. Obviously, net generation metering data is not needed when the planning assumption is that the generation output is always assumed to be zero.

G. The Energy Commission Should Ensure The Development Of A Robust Record Upon Which to Base Its Recommendation And That The Issues Facing It Are Fully Vetted.

During the Rule 21 working group meetings in September and October, 2004, CAC/EPUC raised several key questions based on the utilities' position statements in draft copies of the Working Group Report. These questions requested details to substantiate general utility assertions. For example, regarding the utility statement that tariff administration needs require net generation metering, the question "*which tariffs*" was posed. Regarding the claim that net generation metering would enable utilities to determine resource needs and provide safe, reliable service, the question "*how*" was asked. Other questions included what type of data the utility needed for operation purposes (*e.g.,* monthly, annual, etc.), in what format could that data be readily integrated into utility systems, and exactly how much a revenue-quality net generation metering configuration would cost for a 13.8 kV facility. While many of these questions were not answered in the Rule 21 Working Group forum, PG&E

helpfully drafted a matrix of its tariff provisions which PG&E believes require net generation metering; this matrix was appended to the Working Group Report. *See* Appendix A, WG Report.

Utility responses to these questions would further the dialogue among stakeholders, utilities, staff and Commissioners. Responses would ensure a robust development of the record in this proceeding. They would contribute to an open and transparent process, such that the reasoning behind any final Energy Commission recommendation would be readily apparent.

Recognizing the quasi-legislative nature of this proceeding and the failure of the initial attempts to obtain full responses in the Working Group format, CAC/EPUC had informal discussions with Energy Commission staff regarding how to proceed with discovery requests. Subsequent to those discussions and the issuance of the final Working Group Report, CAC/EPUC filed data requests on the utilities on November 16, 2004. CAC/EPUC concurrently provided copies of the questions to the Integrated Energy Policy Report Committee Members, and asked that, if responses were not forthcoming prior to then, the Committee members help obtain responses at the December 10, 2004 hearing.

CAC/EPUC has received an indication that San Diego Gas & Electric Company (SDG&E) does not intend to provide a response to CAC/EPUC. A refusal to respond to CAC/EPUC's data request is well within SDG&E's right, as unlike before a litigated proceeding at the CPUC, there are no Energy Commission regulations requiring a response in a quasilegislative proceeding. Moreover, it would likely take time and effort to assemble responses; utilities, like

all entities, face timing and staffing constraints. As noted above, however, responses to the key questions would enable the Energy Commission to fully develop the record, completely vet the issues and contribute to an open and transparent process. A robust record, complete vetting of the issues and an open and transparent process are important goals. CAC/EPUC respectfully request that the Committee Members enable the achievement of those goals by following up on these questions with the utilities at the December 10, 2004 hearing.

III. CONCLUSION

CAC/EPUC respectfully request that the Energy Commission adopt the balanced approach proposed herein regarding the installation of net generation metering. This approach, in compliance with FERC and CPUC decisions and existing utility tariffs, would selectively require net generation metering only in circumstances where a customer receives a ratepayer-funded incentive, or an exemption from standby charges as a Distributed Energy Resource (DER), or gas service under a cogeneration gas rate.

Dated: November 30, 2004

Respectfully submitted,

_____	_____
Michael Alcantar and Rod Aoki	Evelyn Kahl and Nora Sheriff
Counsel to the Cogeneration Association of California	Counsel to the Energy Producers and Users Coalition